

**Introduced by Senator Speier**

February 22, 2005

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An act to amend Section 12814.6 of the Vehicle Code, relating to vehicles.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 806, as introduced, Speier. Provisional licensing program.

(1) Existing law, the Brady-Jared Teen Driver Safety Act of 1997, allows for the issuance of a driver's license to a person at least 16 years of age but under 18 years of age under the provisional licensing program. Under the act, except as specified, during the first 12 months after issuance of a provisional driver's license, the licensee is prohibited from driving between the hours of 12 midnight and 5 a.m., and during the first 6 months after issuance, the licensee is prohibited from transporting passengers who are under 20 years of age, unless, in either situation the licensee is accompanied and supervised by a licensed driver who is the licensee's parent or guardian, a licensed driver who is 25 years of age or older, or a licensed or certified driving instructor.

This bill, instead, would provide that during the first 12 months after issuance of a provisional license, the license is prohibited from transporting persons' who are under 20 years of age, unless the license is accompanied and supervised in the manner provided under current law, thereby creating a state-mandated local program by creating a new crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 12814.6 of the Vehicle Code is  
2 amended to read:

3 12814.6. (a) Except as provided in Section 12814.7, a  
4 driver's license issued to a person at least 16 years of age but  
5 under 18 years of age shall be issued pursuant to the provisional  
6 licensing program contained in this section. The program shall  
7 consist of all of the following components:

8 (1) Upon application for an original license, the applicant shall  
9 be issued an instruction permit pursuant to Section 12509. A  
10 person who has in his or her immediate possession a valid permit  
11 issued pursuant to Section 12509 may operate a motor vehicle,  
12 other than a motorcycle or motorized bicycle, only when the  
13 person is either taking the driver training instruction referred to  
14 in paragraph (3) or practicing that instruction, provided the  
15 person is accompanied by, and is under the immediate  
16 supervision of, a California licensed driver 25 years of age or  
17 older whose driving privilege is not on probation. The age  
18 requirement of this paragraph does not apply if the licensed  
19 driver is the parent, spouse, or guardian of the permitholder or is  
20 a licensed or certified driving instructor.

21 (2) The person shall hold an instruction permit for not less  
22 than six months prior to applying for a provisional driver's  
23 license.

24 (3) The person shall have complied with one of the following:

25 (A) Satisfactory completion of approved courses in  
26 automobile driver education and driver training maintained  
27 pursuant to provisions of the Education Code in any secondary  
28 school of California, or equivalent instruction in a secondary  
29 school of another state.

30 (B) Satisfactory completion of an integrated driver education  
31 and training program that is approved by the department and  
32 conducted by a driving instructor licensed under Chapter 1  
33 (commencing with Section 11100) of Division 5. The program

1 shall utilize segmented modules, whereby a portion of the  
2 educational instruction is provided by, and then reinforced  
3 through, specific behind-the-wheel training before moving to the  
4 next phase of driver education and training. The program shall  
5 contain a minimum of 30 hours of classroom instruction and six  
6 hours of behind-the-wheel training.

7 (C) Satisfactory completion of six hours or more of  
8 behind-the-wheel instruction by a driving school or an  
9 independent driving instructor licensed under Chapter 1  
10 (commencing with Section 11100) of Division 5 and either an  
11 accredited course in automobile driver education in any  
12 secondary school of California pursuant to provisions of the  
13 Education Code or satisfactory completion of equivalent  
14 professional instruction acceptable to the department. To be  
15 acceptable to the department, the professional instruction shall  
16 meet minimum standards to be prescribed by the department, and  
17 the standards shall be at least equal to the requirements for driver  
18 education and driver training contained in the rules and  
19 regulations adopted by the State Board of Education pursuant to  
20 the Education Code. A person who has complied with this  
21 subdivision shall not be required by the governing board of a  
22 school district to comply with subparagraph (A) in order to  
23 graduate from high school.

24 (D) Except as provided under subparagraph (B), a student may  
25 not take driver training instruction, unless he or she has  
26 successfully completed driver education.

27 (4) The person shall complete 50 hours of supervised driving  
28 practice prior to the issuance of a provisional license, which is in  
29 addition to any other driver training instruction required by law.  
30 Not less than 10 of the required practice hours shall include  
31 driving during darkness, as defined in Section 280. Upon  
32 application for a provisional license, the person shall submit to  
33 the department the certification of a parent, spouse, guardian, or  
34 licensed or certified driving instructor that the applicant has  
35 completed the required amount of driving practice and is  
36 prepared to take the department's driving test. A person without  
37 a parent, spouse, guardian, or who is an emancipated minor, may  
38 have a licensed driver 25 years of age or older or a licensed or  
39 certified driving instructor complete the certification. This  
40 requirement does not apply to motorcycle practice.

(5) The person shall successfully complete an examination required by the department. Before retaking a test, the person shall wait for not less than one week after failure of the written test and for not less than two weeks after failure of the driving test.

(b) Except as provided in Section 12814.7, the provisional driver's license shall be subject to all of the following restrictions:

(1) Except as specified in paragraph (2), during the first six months after issuance of a provisional license the licensee may not do any of the following unless accompanied and supervised by a licensed driver who is the licensee's parent or guardian, a licensed driver who is 25 years of age or older, or a licensed or certified driving instructor:

(A) Drive between the hours of 12 midnight and 5 a.m.

(B) Transport passengers who are under 20 years of age.

~~(2) During the second six months after issuance of a provisional license the licensee may transport passengers under the age of 20 years between the hours of 5 a.m. and 12 midnight without supervision. This driving time restriction may not modify or alter any local ordinance that restricts or prohibits cruising during specified proscribed hours. However, the restriction imposed under subparagraph (A) of paragraph (1) shall continue to apply during this period.~~

~~(3) A licensee may drive between the hours of 12 midnight and 5 a.m. or transport an immediate family member without being accompanied and supervised by a licensed driver who is the licensee's parent or guardian, a licensed driver who is 25 years of age or older, or a licensed or certified driving instructor, in the following circumstances:~~

~~(A) Medical necessity of the licensee when reasonable transportation facilities are inadequate and operation of a vehicle by a minor is necessary. The licensee shall keep in his or her possession a signed statement from a physician familiar with the condition, containing a diagnosis and probable date when sufficient recovery will have been made to terminate the necessity.~~

~~(B) Schooling or school-authorized activities of the licensee when reasonable transportation facilities are inadequate and operation of a vehicle by a minor is necessary. The licensee shall~~

1 keep in his or her possession a signed statement from the school  
2 principal, dean, or school staff member designated by the  
3 principal or dean, containing a probable date that the schooling or  
4 school-authorized activity will have been completed.

5 (C) Employment necessity of the licensee when reasonable  
6 transportation facilities are inadequate and operation of a vehicle  
7 by a minor is necessary. The licensee shall keep in his or her  
8 possession a signed statement from the employer, verifying  
9 employment and containing a probable date that the employment  
10 will have been completed.

11 (D) Necessity of the licensee or the licensee's immediate  
12 family member when reasonable transportation facilities are  
13 inadequate and operation of a vehicle by a minor is necessary to  
14 transport the licensee or the licensee's immediate family  
15 member. The licensee shall keep in his or her possession a signed  
16 statement from a parent or legal guardian verifying the reason  
17 and containing a probable date that the necessity will have  
18 ceased.

19 (E) The licensee is an emancipated minor.

20 (c) A law enforcement officer may not stop a vehicle for the  
21 sole purpose of determining whether the driver is in violation of  
22 the restrictions imposed under subdivision (b).

23 (d) (1) Upon a finding that any licensee has violated  
24 paragraph (1)-~~or (2)~~ of subdivision (b), the court shall impose one  
25 of the following:

26 (A) Not less than eight hours nor more than 16 hours of  
27 community service for a first offense and not less than 16 hours  
28 nor more than 24 hours of community service for a second or  
29 subsequent offense.

30 (B) A fine of not more than thirty-five dollars (\$35) for a first  
31 offense and a fine of not more than fifty dollars (\$50) for a  
32 second or subsequent offense.

33 (2) If the court orders community service, the court shall retain  
34 jurisdiction until the hours of community service have been  
35 completed.

36 (3) If the hours of community service have not been completed  
37 within 90 days, the court shall impose a fine of not more than  
38 thirty-five dollars (\$35) for a first offense and not more than fifty  
39 dollars (\$50) for a second or subsequent offense.

1 (e) A conviction of paragraph (1)~~or (2)~~ of subdivision (b),  
2 when reported to the department, may not be disclosed as  
3 otherwise specified in Section 1808 or constitute a violation point  
4 count value pursuant to Section 12810.

5 (f) Any term of restriction or suspension of the driving  
6 privilege imposed on a person pursuant to this subdivision shall  
7 remain in effect until the end of the term even though the person  
8 becomes 18 years of age before the term ends.

9 (1) The driving privilege shall be suspended when the record  
10 of the person shows one or more notifications issued pursuant to  
11 Section 40509 or 40509.5. The suspension shall continue until  
12 any notification issued pursuant to Section 40509 or 40509.5 has  
13 been cleared.

14 (2) A 30-day restriction shall be imposed when a driver's  
15 record shows a violation point count of two or more points in 12  
16 months, as determined in accordance with Section 12810. The  
17 restriction shall require the licensee to be accompanied by a  
18 licensed parent, spouse, guardian, or other licensed driver 25  
19 years of age or older, except when operating a class M vehicle, or  
20 so licensed, with no passengers aboard.

21 (3) A six-month suspension of the driving privilege and a  
22 one-year term of probation shall be imposed whenever a  
23 licensee's record shows a violation point count of three or more  
24 points in 12 months, as determined in accordance with Section  
25 12810. The terms and conditions of probation shall include, but  
26 not be limited to, both of the following:

27 (A) The person shall violate no law which, if resulting in  
28 conviction, is reportable to the department under Section 1803.

29 (B) The person shall remain free from accident responsibility.

30 (g) Whenever action by the department under subdivision (f)  
31 arises as a result of a motor vehicle accident, the person may, in  
32 writing and within 10 days, demand a hearing to present evidence  
33 that he or she was not responsible for the accident upon which  
34 the action is based. Whenever action by the department is based  
35 upon a conviction reportable to the department under Section  
36 1803, the person has no right to a hearing pursuant to Article 3  
37 (commencing with Section 14100) of Chapter 3.

38 (h) The department shall require a person whose driving  
39 privilege is suspended or revoked pursuant to subdivision (f) to  
40 submit proof of financial responsibility as defined in Section

1 16430. The proof of financial responsibility shall be filed on or  
2 before the date of reinstatement following the suspension or  
3 revocation. The proof of financial responsibility shall be  
4 maintained with the department for three years following the date  
5 of reinstatement.

6 (i) (1) Notwithstanding any other provision of this code, the  
7 department may issue a distinctive driver's license, that displays  
8 a distinctive color or a distinctively colored stripe or other  
9 distinguishing characteristic, to persons at least 16 years of age  
10 and older but under 18 years of age, and to persons 18 years of  
11 age and older but under 21 years of age, so that the distinctive  
12 license feature is immediately recognizable. The features shall  
13 clearly differentiate between drivers' licenses issued to persons at  
14 least 16 years of age or older but under 18 years of age and to  
15 persons 18 years of age or older but under 21 years of age.

16 (2) If changes in the format or appearance of drivers' licenses  
17 are adopted pursuant to this subdivision, those changes may be  
18 implemented under any new contract for the production of  
19 drivers' licenses entered into after the adoption of those changes.

20 (j) The department shall include, on the face of the provisional  
21 driver's license, the original issuance date of the provisional  
22 driver's license in addition to any other issuance date.

23 (k) This section shall be known and may be cited as the  
24 Brady-Jared Teen Driver Safety Act of 1997.

25 SEC. 2. No reimbursement is required by this act pursuant to  
26 Section 6 of Article XIII B of the California Constitution because  
27 the only costs that may be incurred by a local agency or school  
28 district will be incurred because this act creates a new crime or  
29 infraction, eliminates a crime or infraction, or changes the  
30 penalty for a crime or infraction, within the meaning of Section  
31 17556 of the Government Code, or changes the definition of a  
32 crime within the meaning of Section 6 of Article XIII B of the  
33 California Constitution.